

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-13-WS - ORDER NO. 2007-647
SEPTEMBER 14, 2007

IN RE: Application of Wyboo Plantation Utilities,)
Inc. for Approval of a New Schedule of Rates)
and Charges for Water and Sewer Services.) ORDER GRANTING IN
PART AND DENYING IN
PART PETITIONS

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and/or Reconsideration of Order No. 2007-138 filed by the Office of Regulatory Staff (ORS) and the Petition for Reconsideration of the same Order filed by Wyboo Plantation Utilities, Inc. (Wyboo or the Company). As will be shown below, we grant in part and deny in part each of these petitions.

With regard to the ORS Petition, ORS first requests clarification of Order No. 2007-138 at 9, which states that “[t]he ORS withdrew Seale’s prefiled testimony and did not plan to call her as a witness.” According to ORS, the record does not support this statement that ORS withdrew the testimony of Ms. Seale and did not plan to call Ms. Seale as a witness. ORS states that while ORS withdrew Ms. Seale’s original prefiled testimony, it submitted revised testimony, which excluded affiliate transactions as a result of Commission Order No. 2006-729, dated November 29, 2006. Further, ORS notes that Wyboo called Ms. Seale as a witness, and ORS conducted its examination of her while she was still on the stand. ORS states that at no time did it suggest that it would not call Ms. Seale as a witness. We grant the ORS request for clarification, and retract as

requested the statement to the effect that the Office of Regulatory Staff withdrew the prefiled testimony of Ms. Christina Seale and did not plan to call Ms. Seale as a witness. We hold that Order No. 2007-138 is hereby modified to reflect that Ms. Seale had withdrawn her original prefiled testimony and substituted testimony revised to exclude affiliate transactions, and that the Order not include any reference to whether or not ORS intended to call Ms. Seale as a witness.

Second, ORS has requested that the Commission require in its Order that Wyboo file an application to continue serving customers in the Mill Creek Subdivision at the rates currently approved by the Commission. In our vote of April 11, 2007, we granted this relief, subject to Wyboo being required to file an application for authority to serve Mill Creek Subdivision within six months from its receipt of this Commission's Order. We would note that the application has now been filed and processed, and that Order No. 2007-625 has now been issued clarifying Wyboo's authority to serve, inter alia, Mill Creek Subdivision.

Third, the Office of Regulatory Staff requested that the value of the performance bond required of Wyboo be increased. We deny this relief at this time. While there was some testimony regarding the bond issue, a request to increase the bond was not raised in a pleading in this case, and the testimony before us in this Docket does not provide sufficient clarity to determine that an increase in required bond amounts is mandated. The testimony did show that Wyboo has failed to timely update the personal financial statement of Mr. Wrigley, and we hereby order the Company to provide an updated financial statement of Mr. Wrigley.

Wyboo also filed a Petition for Reconsideration of Order No. 2007-138. Wyboo first argues that the financial viability of the Company is dependent upon rate relief, and that the Commission should grant such relief because ensuring the financial viability of the utility is in the public interest. Taken to an extreme, this argument would obligate the Commission to grant rate relief based upon financial distress without regard to the other factors ordinarily considered in a rate case. In any case, we reject the notion that the Company's financial condition should "trump" all of the other evidence in a petition for rate relief.

Wyboo further alleges error in several particulars, taking issue with the Commission's judgments as to the credibility of the testimony of Mark Wrigley pertaining to the salary and rent expenses claimed by the Company. Taking into account the facts that most of the Company's employees are immediate family members of Wrigley, and that Wrigley owns the rental space from which the Company operates, we found the credibility of Wrigley's testimony to be dubious, at best, and that the testimony was frequently inconsistent on cross-examination. Acting as the finder of fact, the Commission made reasonable judgments with regard to credibility and the weight and sufficiency of the evidence presented in this case. In the judgment of the Commission, Wrigley's testimony lacked credibility and was simply insufficient to carry the burden of proof in this case.

Wyboo also contests the Commission's findings with regard to the public hearing testimony alleging poor quality of service by the Company. Again, this is an issue of

credibility. The Commission was within its discretion in finding that there was evidence of poor quality of service by the Company.

In summary, we affirm our reasoning and rely upon our holdings in Order No. 2007-138, and therefore deny Wyboo's Petition, with one exception. We grant reconsideration and modify Order No. 2007-138 with regard to our holding on the ability of Wyboo to charge its customers a pump-out fee. Wyboo states in its Petition that one of its regulatory obligations is to maintain STEP systems located on customer properties within Wyboo Plantation. Wyboo's present rates do not reimburse Wyboo for any costs associated with STEP system maintenance. Wyboo notes that this Commission has approved a similar fee for another utility. We hold that Wyboo should be able to pass on to its customers a pump-out fee as requested in its application and as supported by the testimony of ORS witness Willie Morgan. Our previous Order is hereby conformed to adopt a tariff provision authorizing a pump-out fee of \$155, and affected customers shall be allowed 90 days from the date of the bill to pay the fee. Again, the remainder of the Wyboo Petition is denied and the reasoning in Order No. 2007-138 is affirmed.

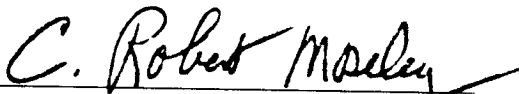
This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman

(SEAL)